

REMARKS

Claim Status

Claims 1-17 are pending in the application, of which claims 1, 4, and 17 are independent. This paper does not amend, add, or cancel any of the claims.

Restriction Requirement

The Office Action required election between Group I (claims 1, 3, 4, 7, 8, and 12-16), and Group II (claims 2, 5, 6, 9-11, and 17). Applicants hereby elect Group II with traverse.

The Office Action further required election of species between (1) copper tungsten alloy, and (2) tantalum. Applicants hereby elect the copper tungsten alloy species. Claims 9-11 and 15 read on the copper tungsten alloy species.

According to the Office Action, the claims of groups I and II are related as combination and subcombination. *See* MPEP § 806.05(a). To support a requirement for restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary. MPEP § 806.05(c). The inventions are distinct if it can be shown that the claimed combination (A) does not require the particulars of the subcombination as claimed for patentability, and (B) the subcombination can be shown to have utility either by itself or in another materially different combination. *Id.* In order to establish reasons for insisting upon restriction, one of the following factors must be shown by appropriate explanation: (A) separate classification, (B) separate status in the art, or (C) a different field of search. MPEP §§ 806.05(c) and 808.02. The Office Action apparently relied on ground (B), asserting that the restriction between Groups I and II

is proper since the inventions “have acquired a separate status in the art because of their recognized divergent subject matter.” This statement is a conclusion unsupported by any evidence or reasoning.

A separate status in the art may be shown, for example, by citation of patents. MPEP § 808.2(B).

This has not been done in the instant case.

Applicants respectfully submit that the restriction requirement between Groups I and II should be withdrawn at least for the reason that the Office Action did not include any evidence or reasoning showing a separate classification, a separate status, or a different field of search.

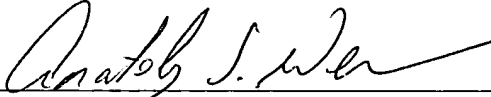
CONCLUSION

To discuss any matter pertaining to the instant application, the Examiner is invited to call the undersigned attorney at (858) 720-9431.

Having made an effort to bring the application in condition for allowance, a notice to this effect is earnestly solicited.

Respectfully submitted,

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Anatoly S. Weiser, Reg. No. 43,229
12526 High Bluff Drive, Suite 300
San Diego, CA 92130
(858) 720-9431